

DECLARATION AND POWER OF ATTORNEY
FOR REISSUE PATENT APPLICATION

1. As the below-named inventors, we hereby declare that:

2. Our residence, post office address and citizenship are as stated below next to our names.

3. We believe we are the original, first and joint inventors of the subject matter which is described and claimed in U.S. Patent No. 5,207,018, granted May 4, 1993, and in the foregoing specification for which invention we solicit a reissue patent.

4. We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims.

5. We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

6. We believe the original patent to be partly inoperative or invalid because of error without any deceptive intent on the part of the Applicants, by reason that we claimed less than we had a right to claim in the above-identified U.S. Letters Patent.

7. To recap the events which led to our discovery of the errors leading to this reissue application, since the issuance of U.S. Patent No. 5,207,018 on May 4, 1993, we have been actively designing and redesigning various models of combination fly swatters and insect traps which

embody our invention, in order to find a design that could be economically manufactured.

8. To date, we have designed ten different types of combination fly swatters and insect traps embodying our invention, but it wasn't until the ninth prototype that we discovered a particular design that could be mass-produced at a reasonable price to provide a product of acceptable quality.

9. Neither my wife nor I were familiar with the various molding techniques available to manufacture a combination fly swatter and insect trap of the present invention at the time our original patent No. 5,207,018 issued May 4, 1993. Subsequently, in connection with our development of the combination fly swatter and insect trap, we have learned a great deal, and determined that it is important that a product embodying our invention be capable of being mass-produced using vacuum thermoform molding methods. Prior to this discovery on our part, we attempted to pursue manufacture of products embodying our invention requiring injection molding techniques. The mold expense (\$20,000.00 to \$30,000.00) is too great for this particular product. However, vacuum thermoform machines are available today, as we have learned during our investigation, that require only a few thousand dollars in tooling to produce a high quality of product in a short amount of time at a competitive price.

10. After settling upon a design embodying our invention that can also be manufactured using vacuum thermoform molding techniques, Robert R. Reaver met with our patent attorney, Scott W. Kelley, Esq., to compare the claims of our patent No. 5,207,018 against a new prototype. We were informed

that none of our issued patent claims read literally on our new prototype.

11. In particular, our new prototype includes a planar closure member which cannot be characterized as "mesh". This limitation, however, is found in each of the issued claims. We believe that requiring devices embodying our invention to have a "mesh" closure member would needlessly and prohibitively increase the cost of the end product.

12. During our meeting with Mr. Kelley we were also informed that the recitation of "a rear slide clamp" might be interpreted too narrowly in view of our new prototypes, although these prototypes include functionally equivalent structure. We were advised that language such as "rear slide clamp means on the rear end portion of the closure member through which the handle slidably extends" more clearly and directly reads on our new prototypes, wherein the rear end portion of our molded closure member actually provides the clamp onto the handle, rather than a separate member.

13. As a result of our discussions with Mr. Kelley we decided that it was important to make relatively minor adjustments to our patent claims to ensure that product embodying our invention is clearly covered and protected by our patent. We, therefore, authorized the preparation and filing of this application.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful

false statements or the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

5 We hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Scott W. Kelley, Registration No. 30,762; Stuart O. Lowry, Registration No. 26,563; John D. Bauersfeld, Registration No. 24,496; John E. Kelly, Registration No. 24,269; and Janine Rickman Novatt, Registration No. 32,593.

Direct all telephone calls to Scott W. Kelley, Esq. at telephone No. (818) 347-7900.

Address all correspondence to:

Scott W. Kelley
KELLY, BAUERSFELD & LOWRY
6320 Canoga Avenue, Suite 1650
Woodland Hills, California 91367

Full name of first, joint inventor: Robert R. Reaver

Inventor's signature: Robert R. Reaver

Date: April 22, 1995

Residence: San Dimas, ^{CA} California

Citizenship: UNITED STATES OF AMERICA

Post Office Address: 1643 Avenida Loma Vista
San Dimas, California 91773

Full name of second, joint inventor: Carol Reaver^{2nd}

Inventor's signature: Carol Reaver

Date: April 22, 1995

Residence: San Dimas, ^{CA} California

Citizenship: UNITED STATES OF AMERICA

Post Office Address: 1643 Avenida Loma Vista
San Dimas, California 91773



Docket No. REAV-35008

Applicant or Patentee: Robert R. Reaver and Carol Reaver
Serial or Patent No:
Filed or Issued: Concurrently
For: COMBINATION FLY SWATTER AND INSECT TRAP

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL
ENTITY STATUS (37 CFR 1.9 (f) and 1.27 (b))
INDEPENDENT INVENTOR

As the below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled: COMBINATION FLY SWATTER AND INSECT TRAP described in

☒ [X] the specification filed herewith
☐ [] Application Serial No. , filed
☐ [] Patent No. , issued

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern, or organization to which I have assigned, granted, conveyed or licensed or am under or may be under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

☒ no such person, concern, or organization
☐ persons, concerns or organizations listed
below*

* Note: Separate verified statements are required for each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

FULL NAME:

ADDRESS:

☐ Individual ☐ Small Business Concern
☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Inventor: Robert R. Reaver

Signature of Inventor: Robert R. Reaver

Date: April 22 —, 1995



Docket No. REAV-35008

Applicant or Patentee: Robert R. Reaver and Carol Reaver
Serial or Patent No:
Filed or Issued: Concurrently
For: COMBINATION FLY SWATTER AND INSECT TRAP

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL
ENTITY STATUS (37 CFR 1.9 (f) and 1.27 (b))
INDEPENDENT INVENTOR

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☒ [X] the specification filed herewith
[] Application Serial No. , filed
[] Patent No. , issued

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern, or organization to which I have assigned, granted, conveyed or licensed or am under or may be under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

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☐ persons, concerns or organizations listed
below*

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FULL NAME:


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Name of Inventor: Carol Reaver

Signature of Inventor: 

Date: April 22, 1995

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of)	Group Art Unit:
ROBERT R. REAVER ET AL.)	Examiner:
Serial No.)	
Filed: Concurrently)	
Patent No. 5,207,018)	
Granted: May 4, 1993)	
Patentees: Robert R. Reaver)	
Carol Reaver)	
For: COMBINATION FLY SWATTER)	
AND INSECT TRAP)	

DECLARATION OF SCOTT W. KELLEY

Hon. Commissioner of Patents
and Trademarks
Box Patent Application
Washington, D.C. 20231

Sir:

1. I, Scott W. Kelley, am an attorney duly licensed to practice law in the State of California, and before the United States Patent and Trademark Office, Registration No. 30,762.

2. On February 16, 1995 I met with Mr. Robert R. Reaver, one of the inventors listed on patent No. 5,207,018. Mr. Reaver showed me a prototype combination fly swatter and insect trap suitable for manufacture by vacuum thermoform molding techniques. He requested that I review U.S. Patent No. 5,207,018 and render an opinion as to whether the prototype unit was adequately covered by these patent claims.

Serial No.

3. As a result of my review of the aforementioned patent, I concluded that the product shown to me by Mr. Reaver did not fall literally within the scope of the patent claims as written due to the requirement that the planar closure member be "mesh".

4. Upon further review of the aforesaid U.S. Patent in light of my conversations with Mr. Reaver, it became clear that the limitation of the "mesh" closure member was unnecessary to the invention, that such a limitation was included due to an oversight by Mr. Reaver, and that this constituted a mistake of sufficient magnitude to warrant the filing of a reissue application.

5. Upon further review of the patent claims in light of Mr. Reaver's prototype during our meeting on February 16, 1995, I also determined that the recitation of "a rear slide clamp attached to the rear end portion of the mesh closure member, having a central notch through which the handle slidably extends" could be interpreted so as to not literally cover Mr. Reaver's new prototype embodying the invention, although the structure of his new prototype embodied functionally equivalent structure.

6. More particularly, I advised Mr. Reaver that language such as "rear slide clamp means on the rear end portion of the closure member through which the handle slidably extends," more clearly and directly reads on the new prototype, wherein the rear end portion of the molded closure member actually provides the clamp onto the handle.

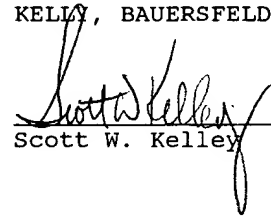
7. The undersigned declares that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and

Serial No.

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such false statements may jeopardize the validity of the application or any registration resulting thereon.

Date: April 25, 1995

KELLY, BAUERSFELD & LOWRY



Scott W. Kelley